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6 Attorneys for defendant  
7 Midland Credit Management, Inc.

E-filing

ORIGINAL  
FILED  
2010 JAN 13 PM 12:41  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EMC

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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 C 10 0164  
12 PLACIDO PARASDAS, } CASE NO.:  
13 Plaintiff, }  
14 vs. }  
15 MIDLAND CREDIT }  
16 MANAGEMENT, INC.; DOES 1-10, }  
17 Defendants. }  
18 \_\_\_\_\_ }  
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**NOTICE OF REMOVAL**

1 || TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that defendant Midland Credit Management, Inc.  
3 (“Defendant”), a Kansas Corporation, hereby removes to this Court the state court  
4 action described below.

5       1. On December 3, 2009, a complaint was filed against Defendant by  
6 plaintiff Placido Parasdas (“Plaintiff”), in an action pending in the Superior Court  
7 of the State of California in and for the County of San Mateo, entitled *Placido*  
8 *Parasdas v. Midland Credit Management et al.*, Case No. CLJ490104. A copy of  
9 the state court complaint (“Complaint”) is attached hereto as **Exhibit A**.

10 2. This removal petition is timely under 28 U.S.C. § 1446(b) because  
11 Defendant first received a copy of the Complaint by United States Mail at its  
12 Pennsylvania address, on December 14, 2009.

## JURISDICTION

14       3.     This action is a civil action of which this Court has original  
15 jurisdiction under 28 U.S.C. § 1331 and which may be removed to this Court by  
16 Defendants pursuant to the provisions of 28 U.S.C. § 1441(b) in that the Complaint  
17 asserts claims against Defendants allegedly arising under federal law 15 U.S.C. §  
18 1692 *et seq.* (The Fair Debt Collection Practices Act).

19       4.     The Complaint was filed in the Superior Court of the State of  
20 California, County of San Mateo. Therefore, venue in the San Francisco or the  
21 Oakland Division of this District is proper. *See* Local Rule 3-2(d) (stating “all civil  
22 actions which arise in the counties of . . . San Mateo . . . shall be assigned to the  
23 San Francisco Division or the Oakland Division”); 28 U.S.C. § 1441(a) (providing  
24 for removal “to the district court of the United States for the district and division  
25 embracing the place” where the state court action is pending).

26        5.      Defendant Midland Credit Management, Inc. is represented by the  
27 undersigned.

1 DATED: January 13, 2010

SIMMONDS & NARITA LLP  
TOMIO B. NARITA  
JEFFREY A. TOPOR

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5 By:

  
6 Tomio B. Narita  
7 Attorneys for defendant  
8 Midland Credit Management, Inc.

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# Exhibit A

DEC-07-2009 19:18 From:

To:Fax

P.2/4

1 Irving L. Berg (SBN 36273)  
2 THE BERG LAW GROUP  
3 145 Town Center, PMB 493  
Corte Madera, California 94925  
(415) 924-0742  
(415) 891-8208 (Fax)  
4 irvberg@comcast.net (e-mail)  
5 ATTORNEY FOR PLAINTIFF

(ENDORSED)  
**FILED**  
SAN MATEO COUNTY

DEC - 9 2009

Clerk of the Superior Court  
By G. Lacy  
DEPUTY CLERK

9  
10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF SAN MATEO

12 LIMITED CIVIL

CLJ 490104

13 PLACIDO PARASDAS,

Case No.:

14 Plaintiff,

COMPLAINT FOR UNLAWFUL DEBT  
COLLECTION PRACTICES

15 v.  
MIDLAND CREDIT MANAGEMENT, INC.; JURY DEMAND  
DOES 1-10

16 Defendants.

17  
18 I. INTRODUCTION

19 1. Plaintiff brings this lawsuit to seek redress for Defendants' debt collection  
20 practices in violation of Civ. Code § 1788, *et seq.* (CA FDCPA), and 15 U.S.C. § 1692, *et seq.*  
(FDCPA).

21 2. Defendants are debt collectors under the provisions of Cal. Civ. Code § 1788.2  
and 15 U.S.C. § 1692 a(6).

22 3. The FDCPA is incorporated into California law pursuant to Cal. Civ. Code §  
23 1788.17.

24 4. Plaintiff seeks statutory damages, attorney's fees, and costs.

25  
26 II. JURISDICTION AND VENUE

27  
28 COMPLAINT/se

PLACIDO PARASDAS v. MIDLAND CREDIT  
MANAGEMENT; DOES 1-10

DEC-07-2009 19:18 From:

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B. 3/4

5. Jurisdiction in this court is conferred by Cal. Code Civ. Proc. §§ 86 and 410.10, and 15 U.S.C. § 1692k(d).

6. Venue is proper in this court because Plaintiff resides in this county, Defendants do business in this county, and the collection communications were received in this county.

### III. PARTIES

7. Plaintiff is an adult individual who resides in this county.

8. Defendant MIDLAND CREDIT MANAGEMENT ("MCM" or "Defendant") maintains an office at which it receives mail located at Department 12421, PO Box 603, Oak Park, PA 19456. Service of legal process is made on an executive officer at this address.

9. Defendant Does 1-10 are employees and agents of Defendant and are jointly and severally liable for the wrongs alleged herein.

10. Defendants are debt collectors under California law pursuant to Cal. Civ. Code § 1788.2(c) and (g) and federal law pursuant to 15 U.S.C. § 1692a(6).

#### **IV. FACTUAL ALLEGATIONS**

11. Some time ago, Plaintiff was issued a credit card, by an entity known as Aspire, with an account number ending in 5959. Plaintiff used the card to charge goods for Plaintiff's personal and family needs.

12. Some time thereafter the account was sold or assigned to Defendant for collection.

13. Plaintiff retained attorney Irving L. Berg for representation in dealing with  
Defendant.

14. The attorney notified Defendant by letter dated July 12, 2008 of his representation of Plaintiff and requested verification of the debt.

15. Nonetheless, Defendant failed to verify the debt and continued its collection by contacting Plaintiff directly by its collection letter dated October 10, 2009.

16. Defendants' conduct renders them liable for statutory damages as hereafter stated.

## **V. CLAIM FOR RELIEF**

17. Plaintiff incorporates the foregoing paragraphs as though fully set forth

THE BOSTONIAN SOCIETY

PLACIDO PARASDAS v. MIDLAND CREDIT  
MANAGEMENT, DOES 1-10

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P.4/4

1 herein.

2 18. Defendants violate 15 U.S.C. § 1692g(b) by failing to cease collection of a  
3 disputed debt that it had not verified after demand made thereof.

4 19. Defendants violate Cal. Civ. Code § 1788.14 and 15 U.S.C. §1692c(a)(2).

5 20. Pursuant to Cal. Civ. Code § 1788.17, Defendants' conduct subjects them to  
6 liability under section 1692k(2)(a) of the FDCPA and Cal. Civ. Code § 1788.30.

7 21. Pursuant to Cal. Civ. Code § 1788.32, Defendants' liability is cumulative with the  
8 liability stated at Cal. Civ. Code § 1788.30 and 15 U.S.C. § 1692k(a)(2)(A).

9 V. PRAYER

10 WHEREFORE, Plaintiff prays for judgment for statutory damages as follows:

11 1. Statutory damages against Defendant MCM of \$2,000;  
12 2. Statutory damages against Defendant Does 1-10 of \$8,000 proportionally;  
13 3. Attorney's fees and costs.;  
14 4. Jury trial as to all issues alleged herein.

15 Dated: 11/30/09

  
16 Irving L. Berg  
17 THE BERG LAW GROUP  
18 145 Town Center, PMB 493  
19 Corte Madera, California 94925  
(415) 924-0742  
(415) 891-8208 (Fax)

20 ATTORNEY FOR PLAINTIFF

21 NOTICE OF LIEN

22 Please be advised that Plaintiff's attorney claims a lien for attorney's fees on any recovery  
23 herein or such sum as a court awards. All rights to attorney's fees have been assigned by Plaintiff  
24 to his attorney.

25 Dated: 11/30/09

  
26 Irving L. Berg

27 COMPLAINT/se

28 3 PLACIDO PARASDAS v. MIDLAND CREDIT  
MANAGEMENT; DOES 1-10